IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2484 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SURENDRANAGAR DISTRICT PANCHAYAT & 51 - Petitioner(s)

Versus

SIKANDARKHAN KAMUBHA MALEK & 6 - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1,2.

MRS DT SHAH for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 27/07/2005

ORAL JUDGMENT

1.0 The petitioners have challenged the award dated 26.08.1997 passed by the Labour Court, Surendranagar, in

Reference LCS No.228 of 1993, whereby the petitioners were directed to reinstate the respondent with 25 per cent back wages.

2.0 The brief facts of the case are that the respondent herein was employed by the petitioners on daily wage basis. It is the case of the petitioners that the respondent was provided work on daily wage basis depending upon the availability of work and funds. Since the work for which the respondent was employed was work, he was not given any work by the petitioners. Therefore, the respondent raised a dispute by way of a reference before the Labour Court, Surendranagar. The Labour Court, by impugned award allowed the said reference as aforesaid. Hence, this petition.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. Having gone through the impugned award of the Labour Court, it transpires that the award has been passed ex-parte. Hence, in the interest of justice, it would be appropriate if the Labour Court adjudicates the matter afresh after hearing both the sides and after considering the evidence that may be led by them.

4.0 In above view of the matter, this petition is allowed. The impugned award dated 26.08.1997 passed by the Labour Court, Surendranagar, in Reference LCS No.228 of 1993 is quashed and set aside. The Labour Court, Surendranagar, is directed to hear the matter on merits, without being influenced by the fact that this Court has quashed its award. Parties shall be at liberty to lead evidence before the Labour Court and the Labour Court shall adjudicate the matter, after hearing both the sides and after considering the evidence led by both the sides. It is clarified that this Court has not entered into the merits of the matter. The Labour Court, Surendranagar, is directed to dispose of the reference in question within a period of one year from the receipt of writ of this order. Since the matter is required to be adjudicated afresh on account of the default committed by the petitioners, the petitioners shall pay an amount of Rs.5,000/- (Rupees Five thousand only) by way of costs to the respondent. The petitioners shall pay the aforesaid amount of cost of Rs.5,000/- to the respondent by way of an Account Payee Cheque. Only on the production of receipt of Rs.5,000/-, the Labour Court shall proceed with the hearing of the reference in question. Rule is

made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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